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S.B. 1000 -- State Treasurer collection of debts for creditors

Finance Committee public hearing -- March 2, 2009

Testimony of Raphael L. Podolsky

Recommended Committee action: NO ACTION ON THE BILL
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This bill apparently makes the State Treasurer a collection agency for all creditor judgments in the State of Connecticut. We believe that this is an inappropriate role for the State Treasurer to play, will throw the State Treasurer into conflict with thousands of Connecticut residents, will drag the State Treasurer into litigation in which the State has no interest, and will divert large amounts of staff time from the true duties of the State Treasurer. We urge rejection of the bill.

Civil judgments involve private disputes. There is no good public policy reason to inject the State Treasurer's office into these private cases on behalf of creditors against debtors, most of whom are consumers. These collection cases are quite unlike the State's major system for debt collection, which is the Title IV-D system for the collection of child support, in which both the Department of Social Services and the Judicial Branch are involved. That system was created because the State itself was the creditor as a result of the mandatory assignment of child support rights by welfare recipients to the State. The State's interest in child support, in which the State is the provider of last resort of family assistance for indigent families and in which State involvement is required by federal law, makes child support collection a special case. No such special interest exists in ordinary private debt collection activities.

The number of cases subject to debt collection is overwhelming. Judgments are entered in thousands and thousands of civil cases every year. There are about 100,000 small claims cases alone filed annually in Connecticut, many of them for small amounts. In nearly all of those cases, the defendants are consumers -- people who have fallen behind on credit card, hospital, medical, and other bills. The overwhelming percentage of these judgments are entered by default, because consumer debtors rarely appear in court to defend. Default judgments, however, are not necessarily fair and just judgments. Indeed, the Judicial Branch recently created a Bench/Bar Small Claims Committee to examine small claims procedures. The core of its recommendations are based on a recognition that many of these default judgments are for improper amounts or are even without legal justification and that the court system needs to be more aggressive in assuring that the legal basis for judgments -- even default judgments -- is adequately established before a judgment is entered. Using the power of the State to collect these judgments compounds the very problems that the Judicial Branch is trying to fix.

Where civil disputes are entirely private, the appropriate role of the State is to provide a judicial forum in which these disputes can be resolved. It should not be as a collection agency for one side. This bill should not be adopted.